

### **REMARKS**

The Office Action dated January 13, 2004, has been received and carefully noted. The foregoing amendments to the claims and new Figure 8, and the following remarks, are submitted as a full and complete response thereto.

Claims 11, 20 and 21 are amended to more particularly point out and distinctly claim the subject matter of the invention. No new matter is added, and no new issues are raised that require further consideration and/or search. Entry of the amendments at this time is proper. Claims 1-6, 8-16, and 18-21 are pending in the present application. These claims are respectfully submitted for consideration.

As a preliminary matter, the Office Action indicates that claims 1-6 and 8-10 are allowed. Applicants acknowledge with appreciation that the Examiner indicates that claims 1-6 and 8-10 are allowed.

The Office Action also acknowledges the claim for foreign priority under 35 USC § 119.

The drawings stand objected to because Figure 8 allegedly contains foreign language. Applicants submit replacement Figure 8 to correct the language. Applicants respectfully request that the Examiner accept replacement Figure 8. Thus, the objection is rendered moot.

Claim 11 stands rejected under 35 USC § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter that applicants regard as the invention. Applicants amend claim 11 to correct

typographical error and for completeness. Thus, applicants submit that the rejection of claim 11 is rendered moot, and respectfully request that the Examiner withdraw the indefiniteness rejection.

Claim 20 stands objected under 35 USC § 102(a) as allegedly anticipated by U.S. Patent No. 6,148,209 (Hamalainen et al). Applicants note that claim 20 was indicated allowed in the previous Office Action. The present Office Action withdraws the allowability of claim 20.

To anticipate, the cited reference must disclose each and every element of the claimed invention. Applicants submit that Hamalainen does not anticipate claim 20.

Claim 20 recites a mobile communications system including base transceiver stations and mobile stations. The mobile communications system is configured to start a conditional handover and to supply a criterion for the conditional handover to a base transceiver station. The mobile communications system also is configured to measure bursts sent by a mobile station and relating to the handover signalling at the base transceiver station. The mobile communication system also is configured to compare the measurement results with the criterion. The mobile communications system also is configured to interrupt the handover, when the mobile station signal as a result of the comparison does not meet the criterion.

As discussed above, bursts sent out by a mobile station and relating to the handover signalling are measured at the base station. After handover has started, a signal is measured that is received at the base transceiver station from the mobile station in

connection with handover signalling, and handover is allowed to continue only if the mobile station's signal meets an established criterion. Thus, resources are saved within a cellular radio system, especially in systems of several frequency bands, wherein there is only one broadcast channel. It is respectfully submitted that Hamalainen fails to disclose or suggest the elements of pending claim 21. Therefore, the prior art fails to provide the critical and unobvious advantages discussed above.

Hamalainen relates to a high-speed data transmission in a digital mobile communication system. Hamalainen describes handover in a communication system using multi-channel access technique. According to Hamalainen, a mobile station indicates, at the beginning of call set-up or handover, the minimum and the maximum requirements the data transfer rate of user data to the serving mobile communication network. The mobile station controller checks whether it has a sufficient capacity for serving the data call. If so, the base station controller assigns the data call based on the minimum and maximum requirements. Hamalainen, however, does not disclose the mobile communication system configured to measure bursts sent by the mobile station, and relating to the handover signalling, at the base transceiver station, and to compare the measurement results with a criterion for conditional handover.

In contrast, claim 21 recites the mobile communication system is configured "to measure bursts sent by a mobile station relating to the handover signalling at the base transceiver station" and "to compare the measurement results with the criterion." The minimum and maximum requirements for data transfer rate of use of data described by

Hamalainen and checking whether it has sufficient capacity for serving the data call does not disclose measuring bursts sent by a mobile station and related to the handover signalling at the base transceiver station. For at least these reasons, applicants submit that Hamalainen does not anticipate claim 20.

Applicants also note that the rejection of claim 20 is made under 35 USC § 102(a), which states "the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent." Applicants note that Hamalainen issued on November 14, 2000, based upon an application filed on May 5, 1996. The present application, however, was filed on November 1, 2000 and claims priority from Finnish Application No. 981486, filed on June 26, 1998, and is also a continuation of PCT Application No. PCT/FI99/00566 filed on June 24, 1999. Thus, applicants submit that Hamalainen is not a proper reference upon which to reject claim 20 under 35 USC § 102(a). Thus, the present rejection is improper because Hamalainen was not patented before the invention was filed by Applicants, which is constructive reduction to practice. Applicants, however, respond to the rejection of claim 20 in order to further prosecution and move the case to allowance.

Claim 21 stands rejected under 35 USC § 102(a) as allegedly anticipated by U.S. Patent No. 5,715,526 (Weaver, Jr. et al). Claim 21 also was indicated as allowed in the previous Office Action. The indicated allowability of claim 21 has been withdrawn by

the present Office Action. To anticipate, Weaver must disclose each and every element of claim 21.

Claim 21 recites a base transceiver station including a handover-signalling unit for controlling the handover signalling. The base transceiver station comprises measuring means for measuring bursts sent by a mobile station and relating to the handover signalling. The base transceiver station also comprises comparison means for comparing measurement results of the measuring means with a pre-established criterion for continuation of handover, whereby as a result of the comparison a control signal is obtained for the handover-signalling unit.

Weaver relates to controlling transmission power in a cellular communication system. According to Weaver, each base station in the system attempts to measure the power received from each remote unit. When the measure power level exceeds a threshold or exceeds the level received at other base stations, communication with a second base station is established. Weaver, however, does not disclose the base transceiver station comprising measuring means for measuring bursts sent by a mobile station and relating to the handover signalling, and comparison means for comparing measurement results of the measuring means with a pre-established criterion for continuation of handover.

In contrast, claim 21 recites "measuring means for measuring bursts sent by a mobile station and relating to the handover signalling" and "comparison means for comparing measurement results of the measurement means with a pre-established

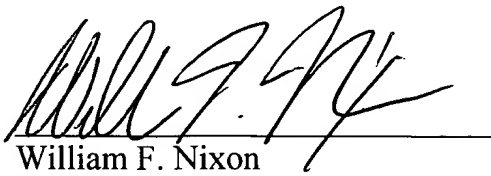
criterion for continuation of handover whereby as a result of the comparison a control signal is obtained for the handover-signalling unit." Weaver describes establishing communication with a second base station when a measured power level exceeds a threshold or exceeds the level received at other base stations. Weaver does not disclose measuring bursts sent by a mobile station and relating to the handover signalling. Each base station of Weaver attempts to measure the power received from each remote unit. Weaver does not disclose measuring means for measuring outbursts sent by a mobile station. Thus, Weaver does not anticipate claim 21, and applicants respectfully request that the Examiner withdraw the anticipation rejections.

It is submitted that claims 20 and 21 recite subject matter that is neither disclosed nor suggested in the cited references. It is therefore respectfully requested that claims 20 and 21 be allowed. Further, claims 11-16 and 18-19 are indicated as being allowable if rewritten to overcome the rejection of claim 11 under 35 USC § 112, second paragraph. Applicants submit that all pending claims 1-6, 8-16 and 18-21 are allowable, and this application passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, the applicants' undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, the applicants respectfully petition for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "W. F. Nixon", is written over a horizontal line.

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WFN:cct/scc

Enclosure: Replacement Figure 8